

AGENDA

NORTH DAKOTA RACING COMMISSION

Live and Telephone Meeting

500 North 9th Street, Bismarck, ND

Tuesday, May 18, 2004

1:00 p.m. (central)

1. Approval of Minutes
 - 1a. Review of Fair Circuit Promotion Fund Request
2. 1 additional 2003 Breeders' Fund Award
 - Runner: Three Moon Gambler
 - Chad Desjarlais (Runner) - \$609.13
 - Doug DeMontigny (Stallion & Mare) - \$406.09
3. Horse Race North Dakota's request for funding for restrooms at track
4. Disciplinary Issues:
 - Chad Warren
 - Dave Wisdom
 - Duane Longie
 - Shawn Belgarde
 - Stuart Belgarde
 - Wanda Belgarde
5. Pinto Spirit/IQ Fund - Simulcast Site Application
6. Other matters which come before the commission

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If you plan to attend the meeting and will need special facilities or assistance relating to a disability, please contact the Racing Commission at 701-328-4633.

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**North Dakota Racing Commission
Live and Telephone Meeting
500 N 9th St., Bismarck, ND
Tuesday, May 18, 2004
1:00 p.m. (central)**

PRESENT:

Chairman James Boehm, Commissioners James Arthaud, James Clement, and Clarence Frederick, Sr., Director of Racing Paul Bowlinger, General Counsel Bill Peterson, Auditor Roger Thompson, and Administrative Officer Helen Tessmann.

By Telephone: Commissioner Sue Andrews

OTHERS PRESENT:

Janell Cole, Fargo Forum
Arlen Ruff, Kelsch Law Firm
Deanna Winter, Tribune
Randy Blaseg
Wes Heinert
Don Polasky, Highway Patrol
Nancy Bayer
Leslie Schmidt, Horse Race North Dakota
Jim Tilton, Horse Race North Dakota
Paul Comeau
Chad Desjarlais
Debbie Longie
Duane Longie
Jeff Sheets
Kent Morrow, Attorney for Pinto Spirit/IQ Fund
Gary Minard, Pinto Spirit/IQ Fund
John Olson, Attorney for Pinto Spirit/IQ Fund
Jeff Grell, Attorney for Pinto Spirit/IQ Fund
John Mahoney, Attorney for Pinto Spirit/IQ Fund
Dale Wetzel, Associated Press
Wanda Belgarde
Stuart Belgarde

Chairman Boehm called the meeting to order at 1:00 p.m. The roll call was taken as indicated below by Director Bowlinger.

Chair Boehm	-	Here
Commissioner Andrews	-	Here (by phone)
Commissioner Arthaud	-	Here
Commissioner Clement	-	Here
Commissioner Frederick	-	Here

AGENDA ITEM #1

1. Approval of Minutes

Director Bowlinger stated that all the members had received copies of the completed minutes of the March 17th and February 25th, 2004 meetings and unless there are any additions or corrections he asked that we approve these minutes.

Commissioner Jim Clement made the motion to approve the minutes of February 25th and March 17th, 2004. Commissioner Jim Arthaud seconded the motion.

Chairman Boehm asked for any further discussion on the approval of the minutes and with none asked Director Bowlinger to take the roll.

Executive Director Bowlinger called the roll as follows:

Commissioner Andrews	-	Yes
Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

1a. Review of Fair Circuit Promotion Fund Request

Director Bowlinger stated that in the December minutes the commission followed what they have done for what I believe the last five years stating charities that applied would receive \$3,500 and so a motion was brought, seconded and passed unanimously that each charity that applied would receive \$3,500. However, after that meeting I received a call Danella from Fair Circuit stating that she had applied for a Promotion Fund request. We could not find that request however we did find that it had come in with the application for license for Fair Circuit and that is why it did not get put into the Promotion Fund. So whoever's fault it was, them misplacing it or I not finding it, I think it is only fair, that since they did have a timely request in for funds, and in order to treat them as any other charity I thought it would only be equitable that we modify the minutes from the December meeting to include Fair Circuit Horse Racing as an eligible charity to receive the \$3,500 and I would ask for a motion to reflect that.

Chairman Boehm asked for the motion.

Commissioner Arthaud made the motion to amend the December minutes to include Fair Circuit Horse Racing as a charity to receive \$3,500 from the Promotion Fund. Commission Frederick seconded the motion.

With no further discussion, Chairman Boehm asked the Director to call the roll.

Executive Director Bowlinger called the roll as follows:

Commissioner Andrews	-	Yes
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Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

AGENDA ITEM #2

- 2. 1 additional 2003 Breeders' Fund Award**
- Runner: Three Moon Gambler
Chad Desjarlais (Runner) - \$609.13
Doug DeMontigny (Stallion & Mare) - \$406.09

Director Bowlinger stated this is an administrative matter. That after investigation it appeared Three Moon Gambler is a legitimate runner that should have been paid and would request that the Racing Commission allow the administrative staff of the Racing Commission office to pay this amount to these two gentlemen out of the administrative account of the Breeders' Fund.

Chairman Boehm asked if there was a motion.

Commissioner Frederick made the motion to award payment to Chad Desjarlais for \$609.13 and Doug DeMontigny for \$406.09 for the runner, Three Moon Gambler that was to be paid out of the administrative account of the Breeders' Fund. Commissioner Jim Clement seconded the motion.

After no further discussion, Chairman Boehm asked the Director to call the roll.
Executive Director Bowlinger called the roll as follows:

Commissioner Andrews	-	Yes
Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

AGENDA ITEM #3

- 3. Horse Race North Dakota's request for funding for restrooms at track**

Director Bowlinger stated Chairman Boehm; I can only tell you that you have received all of the information via mail from the submissions put in by Mr. Tilton and by Glen Thompson. I believe that Mr. Tilton is here to speak on behalf of that request.

Chairman Boehm recognized Mr. Tilton.

Mr. Tilton thanked the commission for allowing him to speak in regards to this particular request. As you are aware last year was our inaugural attempt at putting the races together in Fargo. We struggled with the situation with port potties, things of that nature. We decided that what we needed to do was go back and re-look at the situation and decide exactly what we needed in order to continue to make the track a viable situation and to actually have a vision towards the future as to what we needed to keep operating. One of the things that has come to mind and we spent considerable effort in the last couple months, putting a proposal together and looking at all of the different requirements that the city has with regard to code and everything like that is a restroom facility. We come forward at this particular time to ask you to look at that. We have in our budget for the coming year operating funds, \$19,300 for port a potties, again you can see that it is going to continue to increase, from last year it was \$16,003. This year we are up about \$3,000. This is an increasing cost and it is a cost that is going to be annual and we decided that one of the areas we could do is maybe get ahead of this by putting in some permanent facility. So I come then today to ask you to consider this request and if there are any questions I could answer, I would be pleased to. Les is with me, Les Schmidt, and we could respond to anything you might ask.

Chairman Boehm asked if this facility would be finished in time for the races. Mr. Tilton answered yes.

Director Bowlinger said, Mr. Chairman and Jim, I have four questions and a comment. First of all you are representing to the commission that if getting these bathroom completed they would eventually be able to be part of the grandstand should a grandstand be built. Mr. Tilton answered, correct. Mr. Bowlinger continued stating, #2 were there efforts to make sure that this is the lowest price for the bathrooms and does the commission have assurance that this has been put out for bids, I guess that we are getting our best bang for our buck in this building? Mr. Tilton answered first of all we are building the absolute minimum as far as space, you know, as far as this bathroom is concerned. You know, we have the numbers from last year, and we have actually worked with the city on this as far as their codes and everything and is it is absolutely the minimum from the standpoint of the number of positions in the bathroom.

Director Bowlinger stated that this is a combination question, are there any additional funds from Fair Circuit Horse Racing that might be available to help defray the cost of this to the commission and two what is your request to the commission specifically for dollar amount? Mr. Tilton answered; well our request to the commission for the dollar amount is \$105,000. The situation is that we believe that there are additional moneys from Fair Circuit Horse Race. There have been preemptive suggestions that we might be able to get that money and use that money.

Chairman Boehm stated so the \$18,000 that we give them this year and preceding years we could just figure we are giving them the money ahead of time basically.

Mr. Tilton continued that the actual cost is \$125,000, the \$19,000 off of that brings it down to \$105,000 and then \$15,000 brings it to approximately to \$90,000.

Commissioner Frederick asked, so the bottom figure is \$90,000? Commissioner Jim Clement asked, so you also have this barn fund right that could be... Mr. Tilton answered; we don't have the barn fund, Jim. The barn fund resides with the ND Horse Park Foundation and that barn fund is there to utilize for the construction of the barn, construction of initially one barn and subsequently additional barns on top of that. There are some monies there, yes, you know, but the thing of it is a situation where if you take that money how can you regenerate that money to take and fulfill that need.

Director Bowlinger asked the commissioner to look in your packet at the last page on right you will have a Promotion Fund balance sheets which shows that in the non committed funds in the Promotion Funds there is approximately \$1,276,000.80 so that is what's in the Promotion Fund checkbook currently. There is still \$300,000 committed to the Horse Park over the next three years.

Chairman Boehm added the way he looks at it we're just giving them the money ahead of time. We have to spend at least \$18,000 every year for a facility if we don't do something permanently. If you want to have anything during the summer, you need facilities, and there is then the additional costs so it is just a waste of money.

Commissioner Clement stated that I would agree and I think currently we are not building any equity. So I guess so that we can get on with business, I would make a motion. I think everybody has to compromise, and they have some funds they could tap into. Because sooner or later we are going to spend that money anyway so we won't be severely criticized if I make that motion for \$85,000 versus \$105,000.

Commissioner Clement made the motion to approve \$85,000 from the Promotion Fund to Horse Race North Dakota to build the restroom facility at the Fargo racetrack. Commissioner Andrews seconded the motion.

Chairman Boehm asked for any further discussion.

Director Bowlinger asked, so I am clear Commissioner Clement, we are not deducting anything out of the previous commitment. Commissioner Clement stated, no I am assuming that they have in their budget they have 17 - 18 already built in. So the 85 plus hopefully they can tap into other funds that they may have available and get it done.

Chairman Boehm asked for any further discussion. With none, he asked the Director to take the roll.

Executive Director Bowlinger called the roll as follows:

Commissioner Andrews	-	Yes
Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

AGENDA ITEM #4

4. Disciplinary Issues:

Bill Peterson explained the process for disciplinary action. The first cases Chad Warren, Dave Wisdom and Duane Longie are all disciplinary actions, three against licensees. The way this works is a commission gets a complaint from somebody, and the commission will investigate and ask for a response from the licensee to that complaint. Once that information is received then the issue comes to the commission and the first thing the commission has to consider is

whether or not there are grounds to support, reasonable basis to believe, or grounds to support going ahead with a disciplinary action. That is the first consideration to decide and whether or not you want to go ahead with a disciplinary action.

At this meeting I don't think it is necessary to take testimony and the commission can ask questions if they choose but there is no need to do so. You should have all information that is necessary. If you don't, it can be tabled and ask for further information and consider it at another meeting. If you make a decision to go ahead with a disciplinary action, then you might consider authorizing me to offer the licensee a settlement agreement on whatever terms you think are appropriate. If it can't be settled then I serve the licensee with a formal complaint and they have an opportunity to answer that complaint. If they answer that complaint, then they have a hearing before an administrative law judge from the Office of Administrative Hearings where I on the behalf of the commission would present evidence. The administrative law judge would recommend a decision for the board's consideration. The board can adopt that decision, reject it or modify it only if they have good cause to do so and then the commission would order their final decision on that basis. So at this point the only thing you are deciding is whether or not to go ahead with formal disciplinary action and if you do whether or not you want to offer a settlement agreement on whatever terms are reasonable.

Chad Warren

Mr. Peterson continued that the first case is a complaint against Chad Warren for an alleged assault on a steward. I think you have the information before you: some police reports, and also some other statements. So the first thing you have to decide in this case is whether or not you want to proceed with formal disciplinary action against Mr. Warren.

Director Bowlinger stated for the benefit of the commissioners you have been sent out a packet last week of the police report and all the statements. Also our counsel then sent out a letter to Mr. Warren asking if he had anything to submit. We have received nothing from Mr. Warren. Mr. Bowlinger added that since that time you have the affidavit from Randy Blaseg and also Glen Thompson.

Since that time we have received an affidavit from Chad Benjamin who was another jockey who actually witnessed and has a signed affidavit that he saw Chad Warren strike Mr. Blaseg. We have an additional affidavit from Kelly Peach who was told by Chad Warren that Chad Warren assaulted Randy Blaseg. So in looking at these facts with nothing responsive from Mr. Warren, I spent quite a bit of time this week talking to other Directors of Racing and they were all shocked and of course could not comprehend that we would not take very serious action against someone striking a state official. It does not make any difference where it occurs. However, in trying to get some sort of consensus the best I could get was a suspension of license and a ban from the presence of any live track for a period of 10 years and after that period he would then be able reapply for a license.

Counsel Peterson state he would like to point out a couple things. First thing you will have to decide is whether or not you want to go ahead with a disciplinary action and if you do decided to go ahead with a disciplinary action, I would seek the most extreme penalty I could. Then you can decide whether or not you want to offer him a settlement agreement on whatever terms perhaps a suspension of ten years or whatever. First thing you need to decide is whether or not you want to go ahead with disciplinary action. Oh, one more thing, the reason I talk about a suspension being more severe than a revocation is because under your rules a revocation, while it can be permanent after one year, the individual can reapply for a license and so a suspension of a set number of years could be more severe than a revocation in that case.

Director Bowlinger added, and also the suspension then goes into the NAPRA database, which means the other jurisdictions reciprocate against that. That's really what the other jurisdictions want to know. We don't want this person on our grounds if this is the conduct to be expected.

Commissioner Clement stated that what we need to do now is to decide whether to go ahead with a disciplinary action. We don't decide on the penalty at this point. Mr. Bowlinger answered that is correct.

Chair Boehm asked if there was a motion to that affect. Do we want to go ahead or just drop it? That is your choice.

Commissioner Clement added that there is just no excuse for bad behavior especially of this magnitude.

Commissioner Clement made the motion to proceed with disciplinary action against Chad Warren for assaulting a state official. Commissioner Arthaud seconded the motion.

With no further discussion, Chairman Boehm asked the Director to take the roll.

Executive Director Bowlinger called the roll as follows:

Commissioner Andrews	-	Yes
Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

Counsel Peterson stated that now if you would like you can authorize me to offer Mr. Warren a settlement agreement on whatever terms you think you would be willing to accept. You could do that in executive session if you want but I don't think that it is probably necessary in this case. So if there is a settlement agreement you would like me to offer him, you can do so. Commissioner Arthaud asked, you said initially if we did not offer a settlement agreement would prosecute to the full extent of the law. Counsel Peterson added that I would say that a lengthy suspension would be the most extreme penalty that you could give him. Counsel Peterson added but if you wanted to offer him a 10-year suspension and potentially avoid the cost of an administrative hearing you could do that which I think is a reasonable thing to do. If he doesn't accept it then we can go ahead.

Commissioner Arthaud made the motion for disciplinary action for Chad Warren for assaulting a steward of a \$500 fine and a suspended license and a ban from presence at any live track for a period of 10 years and after such period he may reapply for license. Commissioner Clement seconded the motion.

Chairman Boehm asked for any further discussion. With none asked the Director to take the roll.

Executive Director Bowlinger called the roll as follows:

Commissioner Andrews	-	Yes
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Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	No
Chairman Boehm	-	Yes

The motion passed.

Disciplinary actions continued:

David Wisdom

Counsel Peterson stated again this is a disciplinary action against the licensee. The allegation is that he entered a horse in a race without providing full disclosure of the ownership of that horse. It was alleged that Mr. Toaster ran and that Gene Nicholas was an additional owner and that another individual may have also had an interest in the horse. Mr. Wisdom was asked for a response to the complaint and he did provide a one-line affidavit to the effect I am the owner of horse known as Mr. Toaster and I owned 100% of Mr. Toaster on Sunday, September 14th, 2003. Because he didn't address and because of some other information that was received, orally we asked for an additional response from Mr. Wisdom. He declined, in fact as of Friday, to make any additional response. So at this point the commission can decide if they would like to proceed with the disciplinary action against Mr. Wisdom's license. You can dismiss as for further information or like I said proceed with disciplinary action.

Commissioner Frederick added you mean dismiss or table. Counsel Peterson added that dismiss would mean that the complaint was done, gone. If you table it you would consider it at another meeting. Director Bowlinger added that if you table, you can ask for more information but we have asked for pretty much all the information. Chairman Boehm added so at this point by his affidavit he still says he is sole owner of the horse. Counsel Peterson added although, and this is hear say, and you can take for what it is worth, that this is not a hearing. You can follow the rules of evidence but I did talk to his attorney and his attorney told me that there was a loan agreement with these individuals and that was the nature of the relationship.

Director Bowlinger added that I also have received a phone call that on the Ed Schultz's show at least one individual stated they had a part ownership in this horse. What we have basically is that Mr. Wisdom stating that it's his horse and then we have the letter from Les Schmidt.

Commissioner Arthaud for someone who doesn't understand totally what the significance of this is, what is the significance of this. Why is this significant that you don't disclose the owner? Counsel Peterson added that the importance of it is that if a person could not be licensed as a owner or would be ineligible to be licensed, it wasn't disclosed if the person that couldn't be licensed as an owner. You would be circumventing the laws concerning the license of ownership.

Counsel Peterson added that I think under the rules it needs to be an ownership interest. But you know, one thing you have to consider about partnerships, you can say you don't have a partnership but if somebody is paying the expenses and receiving the profits in a venture, whether they say they are a partner or not, they essentially are. Simply because you say there no partnership doesn't make it so.

Commissioner Arthaud asked if it would be as simple as giving Gene a call and asking, do you own a part of that horse. Counsel Peterson answered it might be. But from what I have heard from what other people have said, again this is hear say, it wouldn't be admissible in any

hearing or anything. I have heard that the story has changed about whether or not they have had ownership in the horse since the complaint has been made.

Chairman Boehm added, and then it is not a big deal if someone else has ownership in the horse just admit it. It is not going to cost anybody anything. Counsel Peterson added, here is what I told Mr. Wisdom's attorney, is that if he discloses the interest, explains the interest that other people might have had in this horse, then I could feel confident in making a recommendation to the commission, that assuming the interests were as alleged in the complaint, that I could make a recommendation to the commission that they dismiss the complaint with a letter of concern about disclosing ownership. But since we don't know what those ownerships, I can't do that.

Commissioner Frederick asked without disclosing full ownership wouldn't that be running a horse illegally. Randy Blaseg added that there very likely could be a hearing concerning that because they are obligated to disclose the ownership and the whole purpose of that disclosure is so that if the Racing commission wants to find out if that person could be licensable.

Mr. Arlen Ruff asked Commissioner Boehm, if I may, my name is Arlen Ruff, I am the attorney for Mr. Wisdom and I have been obviously hearing the comments of Mr. Peterson and I agree with him to a certain extent. He talks about however disclosing the interest of others in this horse and we have disclosed. There are no other interests in this horse. Mr. Wisdom is the only one who has put in anything, he was asked for an affidavit, under oath, and he did put that in. Prior to apparently this commission authorizing any further investigation, now it has been stated that they don't feel they can really go out and get statements from anyone else in that regard but they felt compelled to ask Mr. Wisdom for a affidavit which he did provide saying I own 100% of this horse. I would also like to point out that the nature of financial arrangement has been fully discussed and disclosed with Commissioner Boehm and Commissioner Clement and Commissioner Arthaud by Mr. Wisdom. So none of that has been concealed. The issue of Mr. Nicolas being contacted or anyone else being contacted, I find it sort of hard to imagine that someone from the Commissioners' office or Mr. Peterson have not even at least called Mr. Nicolas whether it is on rules or not based on the letter of Mr. Schmidt. Do you own any interest in this horse? I find it hard to believe that that contact was not made. As far as Mr. Wisdom is concerned we believe the matter was fully concluded. When the race was run, the proceeds, the purse money was withheld from Mr. Wisdom for a period of time. Then this information was provided and it subsequent to that. Mr. Wisdom had a conversation with Mr. Bowlinger. Mr. Bowlinger indicated he was not aware that the proceeds had been withheld from Mr. Wisdom and I believe indicated that there was no reason at that point to withhold those proceeds. Subsequent to that time, shortly there after, the proceeds were paid out and at that time Mr. Wisdom believed that the matter was fully concluded and that there was no further reason for any further investigation of any sort. In April of this year Mr. Wisdom did have a conversation with Les Schmidt concerning this matter when it appeared it had not died and Mr. Schmidt indicated to Mr. Wisdom that he did not believe that his letter of inquiry was a complaint. That it was simply that a letter of inquiry as to the ownership issue. Mr. Wisdom then asked Mr. Schmidt if he was satisfied with the explanation that was given concerning ownership of the horse and he indicated to Mr. Wisdom that he was satisfied with the explanation. Based on that it would be our position that there is no further reason to come forward with any further disciplinary action that would simply be a waste of additional time and resources of this commission that it would simply reinforce what has already been told is that no one had additional ownership interest in this horse. So I would ask on behalf of Mr. Wisdom that this be dismissed.

Chairman Boehm stated we have got an affidavit that Mr. Wisdom is the sole owner. Then we have some disagreement among certain people that there are probably some other owners or interested parties so we have a choice. Either we dismiss the complaint at this time or continue and get further information. Counsel Peterson stated you have three choices. You can dismiss the complaint, you can table the complaint and seek further information or you can decide to proceed with disciplinary action. Chairman Boehm stated that he would like to personally table this discussion right now and then get further information rather than proceed with the complaint. That is how I feel.

Commissioner Frederick made the motion to table the issue against Mr. Wisdom and authorize Mr. Peterson to seek more information concerning this matter. Commissioner Clement seconded the motion.

Executive Director Bowlinger called the roll as follows:

Commissioner Andrews	-	Yes
Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

Duane Longie

Counsel Peterson stated the third disciplinary action is the action against the trainer of Crazy Kass, Duane Longie. The complaint was that he entered a horse in race without the lessor/owner of the horse being licensed. The rules do require that both lessor and lessee must be licensed and the lessor of this horse was not licensed. I think that is clear, however, you will notice that I think that the Racing Commission or the Racing Secretary has to take some responsibility for this violation because Mr. Longie did disclose the lease, in fact he filed the lease the Racing Commission. He did disclose it on his application, never withheld from the Racing Secretary or the Racing Commission and the Racing Secretary apparently did not inform him that the owner or lessor of the horse needed to be licensed as well. So under those circumstances I would recommend that the commission dismiss this complaint with a letter of concern to Mr. Longie that in the future it is necessary that the lessor or the owner of the horse under the rules be licensed.

Commissioner Frederick moved that the complaint against Duane Longie be dismissed. Commissioner Clement seconded the motion.

Chairman Boehm asked for discussion. With no further discussion, the Chairman asked the Director to take the roll.

Executive Director Bowlinger called the roll as follows:

Commissioner Andrews	-	Yes
Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

Shawn Belgarde

Counsel Peterson recommended the North Dakota Racing Commission dismiss this case based on lack of jurisdiction.

Commissioner Arthaud made the motion to dismiss the appeal of Shawn Belgarde for lack of jurisdiction. Commissioner Clement seconded the motion.

With no further discussion, Chairman Boehm asked the Director to take the roll.

Executive Director Bowlinger called the roll as follows:

Commissioner Andrews	-	Yes
Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

Stuart Belgarde

Counsel Peterson stated that Stuart Belgarde is appealing his appeal. He states I am appealing your decision that was made on August 22, 2003 regarding my removal from the Fargo race track. I am submitting an application from my trainer/owner license and goes on from there. The key thing there I think, and you have this material, I am appealing your decision that was made on August 22nd regarding my removal from the Fargo race track. Again this is a within the jurisdiction of the association that is running the race to ban somebody from the track or eject somebody from the track. The commission can't hear an appeal from that decision by the association. For that reason I would again recommend that the commission would dismiss Stuart Belgarde's appeal.

Commissioner Arthaud made the motion to dismiss Stuart Belgarde's appeal for lack of jurisdiction. Commissioner Clement seconded the motion.

With no further discussion, the Chairman asked the Director to take the roll.

Executive Director Bowlinger called the roll as follows:

Commissioner Andrews	-	Yes
Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

Wanda Belgarde

Counsel Peterson stated that Wanda Belgarde has appealed her fine and the commission does have jurisdiction to hear appeals from fines. She was fined \$100 for failing to scratch a horse under rule 69.5-01-07-08, which in two difference cases, the \$100 fine in each case. Under 69.5-01-07-08 unless otherwise set by the Racing Secretary scratch time with regards to state races must be at least 45 minutes before post time and regard to other races may be no later than 8 a.m. the day of the race. It is alleged that Wanda Belgarde did not scratch those two horses at all much less then within time. The decision for the commission to affirm, at this point is whether or not they want to approve those fines, each fine \$100. If you do that then I would provide notice to Ms. Belgarde of the fine and she would have opportunity for a hearing before an administrative law judge were the evidence could be presented and as in the disciplinary cases the administrative law judge would recommend a decision for the commission's consideration.

Commissioner Arthaud made the motion to affirm the fines imposed by the steward and due to lack of information allow the Wanda Belgarde case to go before an administrative law judge. Commissioner Clement seconded the motion.

(Discussion)

Counsel Peterson stated he would send Ms Belgarde a written notice of the decision and an opportunity for a hearing.

With no further discussion, the Chairman asked the Director to take the roll.

Executive Director Bowlinger called the roll as follows:

Commissioner Andrews	-	Yes
Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

Wanda Belgarde stated that I would like this placed on the record that Stuart, Shawn and myself were not properly notified, the procedure was not done correctly in regards to the hearing.

Chairman Boehm stated, so noted.

Director Bowlinger asked Commissioner Andrews, you only have a few more minutes left don't you? Commissioner Andrews answered, yes. We just have one issue left.

AGENDA ITEM #5

5. Pinto Spirits/IQ Fund - Simulcast Site Application

Director Bowlinger informed the commission that all documentation had been provided to all commissioners and to Pinto Spirit's counsel.

Chairman Boehm informed that John Olson would present on behalf of Pinto Spirit. Mr. Olson informed the commission regarding issues at the Standing Rock Reservation and the adverse publicity against Pinto Spirit.

At this point in time Commissioner Andrews had to leave the meeting.

Kent Morrow addressed the Racing Commission also providing information regarding the judgments rendered against Pinto Spirit Development.

John Mahoney next addressed the Racing Commission regarding the quarterly reports of Pinto Spirits and a meeting he had had with Keith Lauer, Paul Bowlinger and Gary Minard.

Jeff Grell subsequently addressed the commission and at length described the legalities involved in the legal issues Mr. Minard and Pinto Spirit faced on the Standing Rock Reservation.

Jeff Sheets, the attorney for the Bear Solider District, addressed the commission and informed that he anticipated a final money judgment against Pinto Spirit within the next couple of weeks. Commissioner Clement questioned where all the money had gone. Mr. Grell responded that the money went into the apartments on the Standing Rock Reservation.

Director Bowlinger asked Mr. Olson to explain where the \$450,000 came from to buy Smokey's. Mr. Olson answered that it was leveraged, and the money was borrowed and has nothing to do with the Tribal Court issue at all. Intense discussion followed regarding issues of HUD development on the Standing Rock Reservation.

Commissioner Arthaud questioned why it would be in Horse Racing's best interest to license Pinto Spirit/IQ Fund in that the charity was not directly related to horse racing. Mr. Minard responded by stating that the state and Racing Commission would generate income from the amounts bet at the race track. Mr. Les Schmidt addressed the ND Racing Commission informing that in his opinion a competitive site in West Fargo would indirectly take away money from the Fair Circuit site in Fargo which would be detrimental. After much discussion, Commissioner Clement stated that he did not feel the attorneys nor Mr. Minard had answered his questions regarding integrity or where the money went.

Commissioner Clement moved to deny an OTB license for Smokey's in Fargo.
Commissioner Frederick seconded the motion.

Chairman Boehm asked for discussion among the members.

Commissioner Arthaud said I have one question. If it is denied, what is the reapplication process? Twenty days, one week? Not for another year.

Director Bowlinger stated I believe they have the right to appeal the denial first of all. Counsel Peterson stated they would get the notice of the denial and an opportunity for a hearing on the matter. Commissioner Arthaud asked, and who is the hearing in front of and Counsel Peterson replied an Administrative Law Judge would make a recommend of a decision to the commission. As far as reapplication there is nothing from preventing them from applying again tomorrow.

Mr. Paul Comeau addressed the commission in support of the licensure.

Chairman Boehm asked for any questions or any further discussion and thanked Mr. Comeau.

Executive Director Bowlinger called the roll as follows:

Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Chairman Boehm	-	Yes

The motion passes.

AGENDA ITEM #6

6. Other matters which come before the commission

Director Bowlinger stated he had nothing further unless the any other commissioners do. We will redraft the December minutes and get them out to you as soon as possible.

Chairman Boehm asked if there was a motion to adjourn.

Commissioner Frederick made the motion to adjourn the meeting and Commissioner Clement seconded the motion.

Chairman Boehm announced the meeting was adjourned.

Wanda Belgarde announced, under other I had some requests that I had sent in actually October and was supposed to be addressed and I have never heard anything about it.

Counsel Peterson stated I think that would be best to consider the complaints against Randy Blaseg in context whether or not he is going to be reappointed as a Steward. Chairman Boehm added so that will be addressed at the next meeting.... Counsel Peterson added when they consider whether to hire Randy Blaseg.

The meeting was adjourned at 4:20 p.m. on May 18, 2004.